

Federal Communications Commission

**Before the
Federal Communications Commission
Washington, D.C. 20554**

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| In the Matter of |) | |
| |) | |
| Hialeah, City of |) | File No.: EB-FIELDSCR-13-00009759 |
| Owner of Antenna Structure No. 1056512 |) | |
| |) | NOV No.: V201332600011 |
| |) | |
| Hialeah, Florida |) | |

NOTICE OF VIOLATION

Released: July 17, 2013

By the Resident Agent, Miami Office, South Central Region, Enforcement Bureau:

1. This is a Notice of Violation (Notice) issued pursuant to Section 1.89 of the Commission's rules (Rules)¹ to City of Hialeah, owner of antenna structure number 1056512 in Hialeah, Florida. Pursuant to Section 1.89(a) of the Rules, issuance of this Notice does not preclude the Enforcement Bureau from further action if warranted, including issuing a Notice of Apparent Liability for Forfeiture for the violation(s) noted herein.²

2. On June 25, 2013, an agent of the Enforcement Bureau's Miami Office inspected antenna structure number 1056512 located at 83 E. 5th St., Hialeah, FL, and observed the following violation:

47 C.F.R. § 17.23: "Unless otherwise specified by the Commission, each new or altered antenna structure to be registered on or after January 1, 1996, must conform to the Federal Aviation Administration's (FAA's) painting and lighting recommendations set forth on the structure's FAA determination of "no hazard," as referenced in the . . . FAA Advisory Circulars." The FCC's Antenna Structure Registration (ASR) database currently indicates that antenna structure 1056512 requires aviation orange and white paint and red obstruction lighting in accordance with FAA Circular Number 70/7460-1J, Chapters 3, 4, 5, and 13. The antenna structure does not conform to these recommendations. The agent observed that the tower is not painted and a flashing white strobe is located at the top of the structure. Therefore, it is in violation of 47 C.F.R. § 17.23. In order to come into compliance with the Commission's rules, City of Hialeah must do one of the following: (1) obtain a new FAA "no hazard" determination indicating that the current lighting

¹ 47 C.F.R. § 1.89.

² 47 C.F.R. § 1.89(a).

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system is permitted and then submit a modified antenna structure registration to reflect the new “no hazard” determination, (2) submit a modified registration if a new FAA “no hazard” determination already has been obtained, or (3) come into compliance with the current requirements.

3. Pursuant to Section 403 of the Communications Act of 1934, as amended,³ and Section 1.89 of the Rules, we seek additional information concerning the violations and any remedial actions taken. Therefore, City of Hialeah must submit a written statement concerning this matter within twenty (20) days of release of this Notice. The response (i) must fully explain each violation, including all relevant surrounding facts and circumstances, (ii) must contain a statement of the specific action(s) taken to correct each violation and preclude recurrence, and (iii) must include a time line for completion of any pending corrective action(s). The response must be complete in itself and must not be abbreviated by reference to other communications or answers to other notices.⁴

4. In accordance with Section 1.16 of the Rules, we direct City of Hialeah to support its response to this Notice with an affidavit or declaration under penalty of perjury, signed and dated by an authorized officer of City of Hialeah with personal knowledge of the representations provided in City of Hialeah’s response, verifying the truth and accuracy of the information therein,⁵ and confirming that all of the information requested by this Notice which is in the agency’s possession, custody, control, or knowledge has been produced. To knowingly and willfully make any false statement or conceal any material fact in reply to this Notice is punishable by fine or imprisonment under Title 18 of the U.S. Code.⁶

5. All replies and documentation sent in response to this Notice should be marked with the File No. and NOV No. specified above, and mailed to the following address:

Federal Communications Commission
Miami Office
P.O. Box 520617
Miami, FL 33152-0617

6. This Notice shall be sent to City of Hialeah at its address of record.

³ 47 U.S.C. § 403.

⁴ 47 C.F.R. § 1.89(c).

⁵ Section 1.16 of the Rules provides that “[a]ny document to be filed with the Federal Communications Commission and which is required by any law, rule or other regulation of the United States to be supported, evidenced, established or proved by a written sworn declaration, verification, certificate, statement, oath or affidavit by the person making the same, may be supported, evidenced, established or proved by the unsworn declaration, certification, verification, or statement in writing of such person Such declaration shall be subscribed by the declarant as true under penalty of perjury, and dated, in substantially the following form . . . : ‘I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on (date). (Signature)’.” 47 C.F.R. § 1.16.

⁶ 18 U.S.C. § 1001 *et seq.* See also 47 C.F.R. § 1.17.

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7. The Privacy Act of 1974⁷ requires that we advise you that the Commission will use all relevant material information before it, including any information disclosed in your reply, to determine what, if any, enforcement action is required to ensure compliance.

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Steven DeSena
Resident Agent
Miami Office
South Central Region
Enforcement Bureau

⁷ P.L. 93-579, 5 U.S.C. § 552a(e)(3).